

2014 -- H 7138 SUBSTITUTE A

LC003544/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- QUASI-PUBLIC
CORPORATIONS ACCOUNTABILITY AND TRANSPARENCY ACT

Introduced By: Representatives Ucci, Serpa, Fellela, Costantino, and Amore

Date Introduced: January 21, 2014

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 155

4 QUASI-PUBLIC CORPORATIONS ACCOUNTABILITY AND TRANSPARENCY ACT

5 **42-155-1. Title.** -- This chapter shall be known and may be cited as the "Quasi-Public
6 Corporations Accountability and Transparency Act."

7 **42-155-2. Legislative findings.** -- It is hereby found that:

8 (1) Quasi-public corporations are established and empowered by state law, and would not
9 exist but for their relationship with the state.

10 (2) Quasi-public corporations perform essential government functions and/or provide
11 essential government services.

12 (3) Many quasi-public corporations are granted the public power to collect fees and/or
13 generate other revenue and incur debt.

14 (4) Quasi-public corporations manage significant public resources; however, the majority
15 are exempt from many kinds of public oversight, such as executive and legislative budgetary
16 review required of state agencies and departments.

17 (5) It is essential that quasi-public corporations provide more, not less, transparency by
18 making their decisions and budgets especially transparent and open to public scrutiny, and by

1 demonstrating a commitment to protecting the interests of Rhode Island taxpayers by achieving
2 the highest standards of transparent, effective, and ethical operation.

3 (6) Quasi-public corporations are governed by independent boards that serve a critical
4 oversight function and there exists a need to strengthen the ability of board members to carry out
5 this oversight role.

6 (7) Rhode Island citizens rely on their government to provide oversight of quasi-public
7 corporations, with a goal of ensuring that these state entities carry out their government missions
8 effectively, and exemplify a commitment to transparent, accountable, and effective government.

9 (8) The general assembly has made comprehensive amendments to the Rhode Island
10 commerce corporation's enabling legislation to enhance transparency and accountability; provide
11 board members with additional tools to exercise crucial oversight; establish increased reporting
12 requirements; and establish regularly scheduled audits of the corporation. All Rhode Island quasi-
13 public corporations should be held to these higher standards of transparency and accountability.

14 **42-155-3. Definitions. --** (a) As used in this chapter, "quasi-public corporation" means
15 any body corporate and politic created, or to be created, pursuant to the general laws, including,
16 but not limited to, the following:

17 (1) Capital center commission;

18 (2) Rhode Island convention center authority;

19 (3) Rhode Island industrial facilities corporation;

20 (4) Rhode Island industrial-recreational building authority;

21 (5) Rhode Island small business loan fund corporation;

22 (6) Quonset development corporation;

23 (7) Rhode Island airport corporation;

24 (8) I-195 redevelopment district commission;

25 (9) Rhode Island health and educational building corporation;

26 (10) Rhode Island housing and mortgage finance corporation;

27 (11) Rhode Island higher education assistance authority;

28 (12) Rhode Island student loan authority;

29 (13) Narragansett bay commission;

30 (14) Rhode Island clean water finance agency;

31 (15) Rhode Island water resources board;

32 (16) Rhode Island resource recovery corporation;

33 (17) Rhode Island public rail corporation;

34 (18) Rhode Island public transit authority;

- 1 (19) Rhode Island turnpike and bridge authority;
2 (20) Rhode Island tobacco settlement financing corporation; and
3 (21) Any subsidiary of the Rhode Island commerce corporation.

4 (b) Cities, towns, and any corporation created that is an instrumentality and agency of a
5 city or town, and any corporation created by a state law that has been authorized to transact
6 business and exercise its powers by a city or town pursuant to ordinance or resolution, and fire
7 and water districts are not subject to the provisions of this chapter.

8 (c) The Rhode Island commerce corporation, being subject to similar transparency and
9 accountability requirements set forth in chapter 64 of title 42; the Rhode Island public rail
10 corporation established in chapter 64.2 of title 42; Block Island power authority; and the Pascoag
11 utility district shall not be subject to the provisions of this chapter.

12 **42-155-4. Role and responsibilities of board members. --** (a) Board members of quasi-
13 public corporations shall:

14 (1) Execute oversight of the corporation, the chief executive, and other management in
15 the effective and ethical management of the corporation;

16 (2) Understand, review, and monitor the implementation of fundamental financial and
17 management controls and operational decisions of the corporation;

18 (3) Adopt a code of ethics applicable to each officer, director, and employee of the
19 corporation that, at a minimum, includes the standards established in chapter 14 of title 36 ("Code
20 of Ethics");

21 (4) Adopt a mission statement expressing the purpose and goals of the corporation, a
22 description of the stakeholders of the corporation and their reasonable expectations from the
23 corporation, and a list of measurements by which performance of the corporation and the
24 achievement of its goals may be evaluated. Each corporation shall, at least once every three (3)
25 years, publish a self-evaluation based on the stated measurements;

26 (5) Adopt and periodically update an indemnification policy that shall be set forth in the
27 bylaws of the corporation; and

28 (6) Perform each of their duties as board members, including, but not limited to, those
29 imposed by this section, in good faith and with that degree of diligence, care, and skill that an
30 ordinarily prudent person in like position would use under similar circumstances, and ultimately
31 apply independent judgment in the best interest of the quasi-public corporation, its mission, and
32 the public;

33 (b) Board members of quasi-public corporations shall establish and maintain written
34 policies and procedures for the following:

1 (1) Internal accounting and administrative controls in accordance with the provisions of
2 chapter 20 of title 35, the "Public Corporation Financial Integrity and Accountability Act of
3 1995";

4 (2) Travel, including lodging, meals, and incidental expenses; provided, however, that no
5 reimbursement shall exceed the allowable state employee reimbursement amount per day;

6 (3) Grants, charitable and civic donations, and/or contributions; provided, however, that
7 all such grants, donations, or contributions shall be voted on by the full board during an open
8 meeting and the vote shall be recorded in the minutes of the meeting, together with:

9 (i) The citation to the specific state statute authorizing the action;

10 (ii) An explanation of how the grant, donation, or contribution relates to the corporation's
11 mission;

12 (iii) The identity of each board member or employee of the corporation who will receive
13 any benefit from the grant, donation, or contribution including, without limitation, tickets to
14 events, meals, and golf;

15 (iv) Any disclosure required by chapter 14 of title 36 ("Code of Ethics"); and

16 (v) Each such grant, donation, or contribution shall be clearly identified in the financial
17 statements of the corporation.

18 (4) Credit card use; provided, however, that pursuant to § 35-20-10, no credit card shall
19 be used for personal use;

20 (5) Employee reimbursement, including requests by management for business expenses
21 and expenses classified as gifts or entertainment;

22 (6) Personnel, including hiring, dismissing, promoting, and compensating employees of
23 the corporation;

24 (7) Marketing expenses; and

25 (8) Lobbyists' expenses.

26 (c) The written policies and procedures required by this section and any additional
27 written policies and procedures that the board may adopt shall be approved by the board during
28 an open meeting and the vote shall be recorded in the minutes of the meeting.

29 (d) No board member shall serve in a paid capacity as an employee or consultant of the
30 corporation.

31 **42-155-5. Executive compensation.** -- (a) Each quasi-public corporation shall establish a
32 committee on executive compensation, comprised solely of board members that shall:

33 (1) Recommend to the full board the compensation packages of the executive and senior
34 management of the corporation. The compensation package of the executive officer shall be

1 based on a comprehensive and objective analysis of comparable compensation of similar officers
2 of state government, other authorities, quasi-public corporations, and private-sector employees
3 with similar functions and responsibilities. The committee may retain a consultant to assist in the
4 comparability study. When calculating compensation, the committee shall consider the value of
5 the retirement plan in the overall compensation package;

6 (2) Prepare clear, written job descriptions and clear, written expectations of job
7 performance for the executive officer and senior management;

8 (3) Conduct the job performance review of the executive officer at least annually; and

9 (4) Negotiate the employment contract of the executive officer which shall be approved
10 by the full board during an open meeting.

11 **42-155-6. Transparency requirements established.** -- The following shall be public
12 and, available to the public upon request and posted directly, or via direct link, on the website of
13 each quasi-public corporation:

14 (1) Job descriptions of the executive director and management;

15 (2) Compensation comparability studies of the executive;

16 (3) Quarterly financial statements;

17 (4) Capital improvement plans;

18 (5) Operating budgets;

19 (6) Strategic plan;

20 (7) Agendas and minutes of the open meetings of the board;

21 (8) Quarterly contracting reports required by § 42-90-1;

22 (9) Regulations adopted by the quasi-public corporation;

23 (10) Enabling legislation;

24 (11) Mission statement;

25 (12) Board members;

26 (13) Organizational chart;

27 (14) By laws of the quasi-public corporation;

28 (15) All reports and audits required by this chapter.

29 **42-155-7. Audit of quasi-public corporations.** -- (a) Commencing January 1, 2015, and
30 every five (5) years thereafter, each quasi-public corporation shall be subject to a performance
31 audit, conducted in compliance with the generally acceptable governmental auditing standards, by
32 the chief of the bureau of audits. The chief, in collaboration with the quasi-public corporation,
33 shall determine the scope of the audit. To assist in the performance of an audit, the chief, in
34 collaboration with the quasi-public corporation, may procure the services of a certified public

1 accounting firm, which shall be a subcontractor of the bureau of audits, and shall be under the
2 direct supervision of the bureau of audits. The chief of the bureau of audits shall establish a
3 rotating schedule identifying the year in which each quasi-public corporation shall be audited.
4 The schedule shall be posted on the website of the bureau of audits.

5 (b) The audit shall be conducted in conformance with chapter 7 of title 35 ("Post Audit of
6 Accounting").

7 (c) Each quasi-public corporation shall be responsible for costs associated with its own
8 audit. The chief and each quasi-public corporation shall agree upon reasonable costs for the audit,
9 not to exceed seventy-five thousand dollars (\$75,000), that shall be remitted to the bureau of
10 audits.

11 (d) The results of the audit shall be made public upon completion and posted on the
12 websites of the bureau of audits and the quasi-public corporation.

13 (e) For purposes of this section, a performance audit shall mean an independent
14 examination of a program, function, operation, or the management systems and procedures of a
15 governmental or nonprofit entity to assess whether the entity is achieving economy, efficiency,
16 and effectiveness in the employment of an available resources.

17 **42-155-8. Outside employment. --** No employee of a quasi-public corporation may
18 accept outside employment that will impair his or her judgment as to duties and responsibilities in
19 the course of employment with the quasi-public corporation. Generally, outside employment is
20 barred if the private employer can benefit from the official actions of the employee of the quasi-
21 public corporation.

22 **42-155-9. Rules and regulations and other statutes. --** When issuing rules and
23 regulations, or any amendments to rules and regulations, or when adopting by laws or
24 amendments to bylaws, each quasi-public corporation shall be subject to the provisions of chapter
25 35 of title 42 ("Administrative Procedures "). All quasi-public corporations shall be subject to the
26 provisions of chapter 46 of title 42 ("Open Meetings"), chapter 2 of title 38 ("Access to Public
27 Records"), and chapter 14 of title 36 ("Code of Ethics").

28 **42-155-10. Severability. --** If any provision of this chapter, or of any rule or regulation
29 made under this chapter, or its application to any person or circumstance is held invalid by a court
30 of competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of
31 the provision to other persons or circumstances shall not be affected by this invalidity. The
32 invalidity of any section or sections or parts of any section or sections shall not affect the validity
33 of the remainder of the chapter.

1 SECTION 2. This act shall take effect on January 1, 2015.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- QUASI-PUBLIC
CORPORATIONS ACCOUNTABILITY AND TRANSPARENCY ACT

- 1 This act would impose standards of accountability and transparency on quasi-public
- 2 corporations.
- 3 This act would take effect on January 1, 2015.

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